

Chapter 20

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

- Art. I. In General, §§ 20-1—20-20**
- Art. II. Construction and Maintenance of Sidewalks, §§ 20-21—20-50**
- Art. III. Obstructions, §§ 20-51—20-60**
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- Art. V. Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), §§ 20-100—20-119**

ARTICLE I. IN GENERAL

Secs. 20-1—20-20. Reserved.

ARTICLE II. CONSTRUCTION AND MAINTENANCE OF SIDEWALKS

Sec. 20-21. Petition; order by resolution.

Whenever it is deemed necessary by the city council for the safety and convenience of the public that a new sidewalk be built, or whenever a majority of the taxpayers, meaning those owning property fronting or abutting on any street liable for such new sidewalk, petition for the sidewalk, the city council shall by resolution order that such new sidewalk be built. Unless otherwise provided for in the resolution, such sidewalks shall in regard to location, width, grade and material entering into the construction thereof conform with the provisions of this article and the department of state highways' standard plan for sidewalk ramps for the handicapped.

(Ord. No. 145, § 1, 4-6-76)

Sec. 20-22. Notice of resolution.

Whenever the city council has by resolution ordered that a new sidewalk be constructed or an old sidewalk be replaced by a new one, the city manager shall at once serve a written or printed, or partly written and partly printed notice upon the owners or occupants of property adjacent to or abutting the streets where such new sidewalk has been ordered to construct the same. The notice shall state the time when the sidewalk was ordered built by the city council

***Cross references**—Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city saved from repeal, § 1-9(10); any ordinance establishing or prescribing grades in the city saved from repeal, § 1-9(11); buildings and building regulations, Ch. 5; community development, Ch. 7; flood damage prevention, Ch. 9; polluting public places, § 10-1; depositing garbage and rubbish restricted, § 10-25; parks and recreation, Ch. 15; peddlers, solicitors and transient merchants, Ch. 16; planning, Ch. 17; special assessments, Ch. 19; subdivision regulations, Ch. 21; traffic and motor vehicles, Ch. 23; utilities, Ch. 24; vehicles for hire, Ch. 25; waterways, Ch. 26; franchises, App. A.

and the time when the sidewalk shall be completed. When the owners of any piece of property cannot be found the city manager shall serve the notice upon the occupant. In cases where the owners cannot be found and the premises are not occupied he shall serve the notice by posting the notice in some conspicuous place on the premises.

(Ord. No. 145, § 2, 4-6-76)

Sec. 20-23. Preparation by city.

Immediately after having served notice upon the owner or occupant of property to build a new sidewalk, the city manager shall proceed to locate and stake out such new sidewalk in accordance with the rules prescribed in this article and he shall, without further notice, proceed to build the crosswalks and approaches necessary to make proper connections with other sidewalks.

(Ord. No. 145, § 3, 4-6-76)

Sec. 20-24. Owner Responsibility.

When a new sidewalk has been ordered built by the city council it shall be the duty of any and all persons responsible for any portion of such sidewalk and who have been duly notified thereof to construct the sidewalk in front of their respective lots or premises in accordance with the rules, and within the limits of time specified in the notice. Persons owning or responsible for corner lots shall build their portion of such sidewalk far enough past the corner so that the outside corner intersects with the outside edge of the sidewalk of the street intersected.

(Ord. No. 145, § 4, 4-6-76)

Sec. 20-25. Owner to maintain; failure to comply, penalty.

(a) The owner or occupant of any lot or premises adjacent to or abutting on any sidewalk, whether the sidewalk already exists or may hereafter be built, shall keep the sidewalk at all times in good repair and remove all snow, ice and filth from the sidewalk and keep the sidewalk free obstructions, encroachments, encumbrances and other nuisances. If the owner or occupant fails to comply for a period of twenty-four (24) consecutive hours or more, he shall be guilty of a violation of this article.

(b) If the owner or occupant of any lot or premises fails to remove snow, ice or filth from sidewalks pursuant to this article within twelve (12) hours of its accumulation, the city manager shall under the direction of the city council remove the snow, ice or filth from the sidewalk at the expense of the owner or occupant, and all such expense, together with a penalty of ten (10) percent shall be assessed and collected in the manner described in chapter 11 of the city charter.

(Ord. No. 145, §§ 5, 6, 4-6-76)

Sec. 20-26. Specifications.

(a) All sidewalks in the city shall be built of concrete made of the proper material and a minimum of four (4) inches thick. All sidewalks in the city, unless otherwise ordered by the city council shall be not less than four (4) feet wide from the edges. All walks shall be built in workmanlike manner and subject to approval of the city manager.

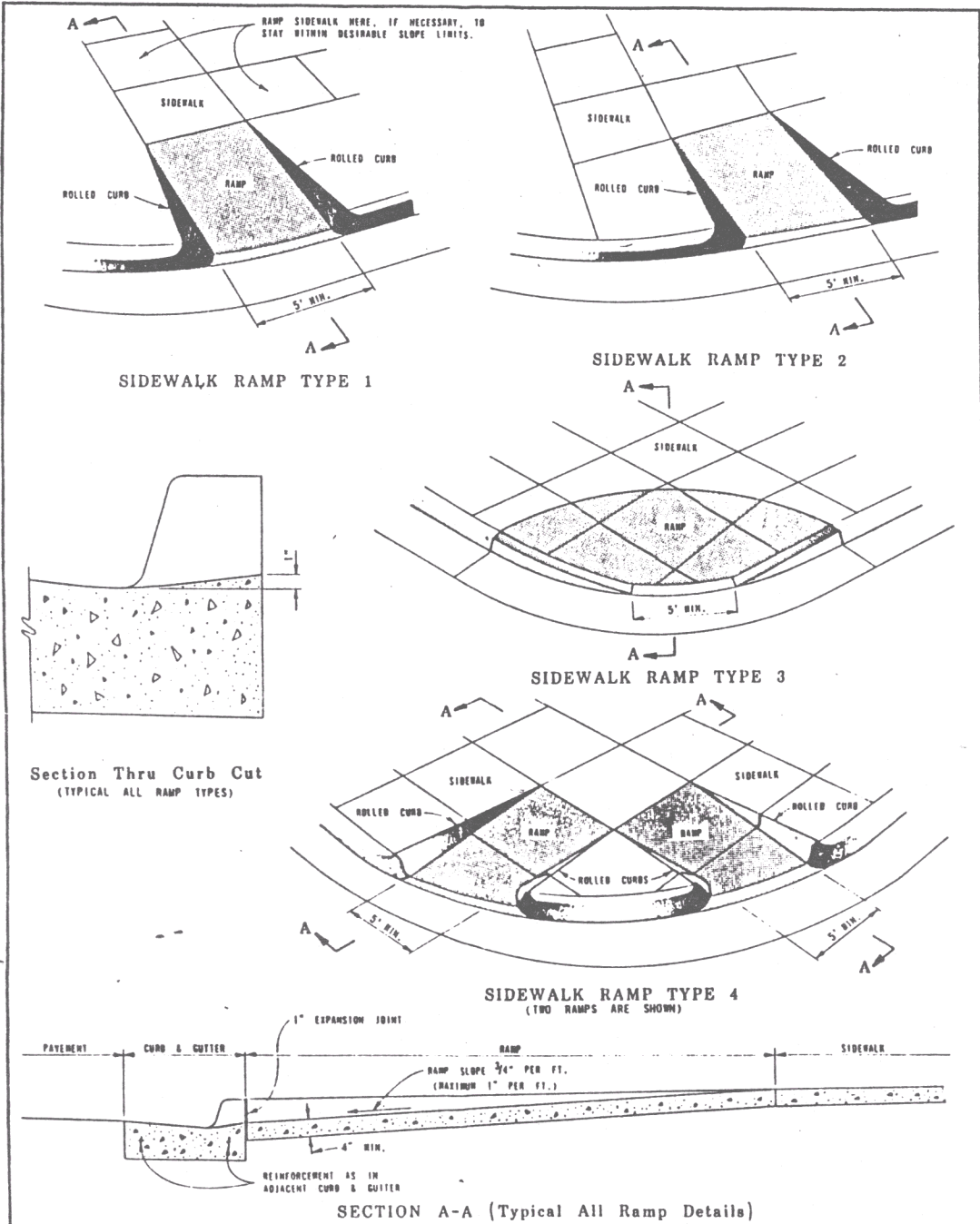
(b) All four-foot walks shall be so located or placed that the outside edge will be five (5) feet from the property line, or as near that as shade trees and other circumstances will permit. All sidewalks five (5) feet and over in width shall be kept to the property line or as near as may be and be straight. The grade for sidewalks shall be such that the top of the walk shall be six (6) inches above the general average of the street where the sidewalk is located or consistent with the finished grade of the property.


(Ord. No. 145, §§ 7, 8, 4-6-76)

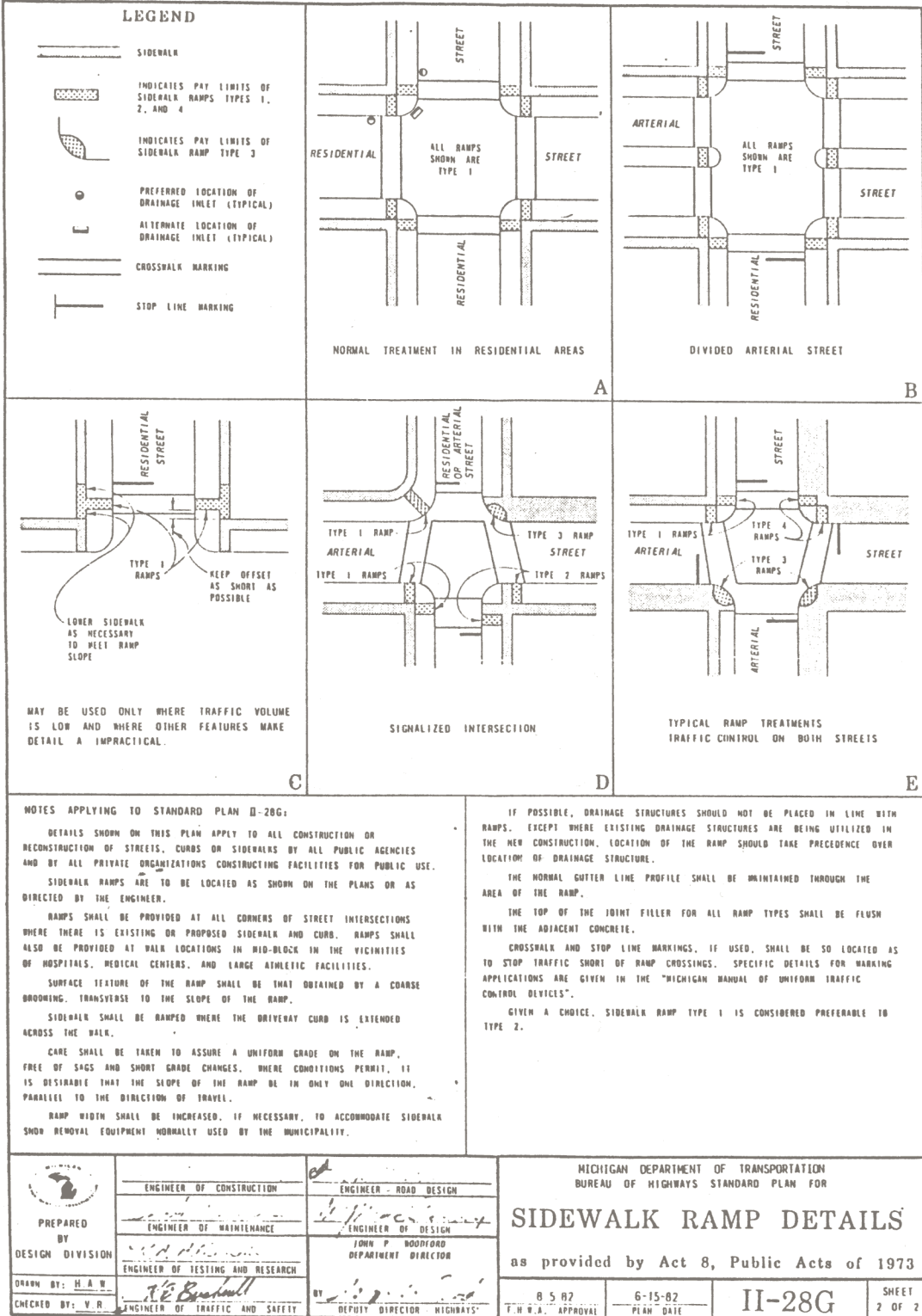
Sec. 20-27. Sidewalk ramp details.

The state department of transportation's Sidewalk Ramp Details is hereby adopted as fully set out in this section.

(Ord. No. 145, § 11, 4-6-76)



 PREPARED BY DESIGN DIVISION DRAWN BY: H. A. W. CHECKED BY: V. R.	ENGINEER OF CONSTRUCTION	ENGINEER - ROAD DESIGN	MICHIGAN DEPARTMENT OF TRANSPORTATION BUREAU OF HIGHWAYS STANDARD PLAN FOR <h2 style="text-align: center;">SIDEWALK RAMP DETAILS</h2> as provided by Act 8, Public Acts of 1973			
	ENGINEER OF MAINTENANCE	ENGINEER OF DESIGN				
	ENGINEER OF TESTING AND RESEARCH	JOHN P. BOONFORD DEPARTMENT DIRECTOR	H. S. A2 F.W.B. APPROVAL		6-15-82 PLAN DATE	II-28G
	ENGINEER OF TRAFFIC AND SAFETY	BY: <i>[Signature]</i> DEPUTY DIRECTOR HIGHWAYS				SHEET 1 OF 2



Sec. 20-28. Time limit.

All sidewalks, unless otherwise ordered by the city council, shall be completed within thirty (30) days after they have been ordered built by the city council.
(Ord. No. 145, § 9, 4-6-76)

Secs. 20-29—20-50. Reserved.

ARTICLE III. OBSTRUCTIONS

Sec. 20-51. Restricted.

It shall be unlawful for any person to obstruct or encumber in any manner whatsoever any sidewalk, street, park, alley or public place of the city except as provided for in this article.
(Ord. No. 88, § 1, 9-21-53)

Sec. 20-52. Conditions for exhibiting goods from adjoining premises.

It shall be lawful for persons owning or occupying premises located within the city to exhibit goods and wares upon the sidewalks immediately adjoining their premises, provided that:

- (1) If such goods or wares consist of edibles, they shall be placed in racks or containers not less than sixteen (16) inches above the sidewalk level;
- (2) No goods or wares of any nature whatsoever shall be placed upon the sidewalks or in racks or containers to extend farther than twenty-four (24) inches from the front of the building located upon their premises, or not to extend more than twenty-four (24) inches onto the public sidewalk.

(Ord. No. 88, § 2, 9-21-53)

Sec. 20-53. Depositing rubbish.

It shall be unlawful to deposit any rubbish of any nature upon the sidewalks, streets, parks, alleys or other public place of the city except for the purpose of collection by the city and then only on the days and at the times set forth by the city council.
(Ord. No. 88, § 3, 9-21-53)

Sec. 20-54. Storing merchandise for delivery.

It shall be unlawful to place, or permit to be placed upon the sidewalks, streets, parks, alleys or other public place of the city any merchandise or materials being delivered to the owner or occupant of the premises, or to place thereon any merchandise or materials for pickup by any person, for a period in excess of two (2) hours.
(Ord. No. 88, § 4, 9-21-53)

Sec. 20-55. Violation.

If any owner or occupant of premises shall encumber or obstruct the sidewalks, streets, parks, alleys or other public place of the city in violation of this article, the chief of police, under the direction of the city council, shall cause encumbrance or obstruction to be removed at the expense of the owner or occupant in the manner prescribed by law, and, in addition, any person violating any provision of this article shall be guilty of a misdemeanor.

(Ord. No. 88, § 6, 9-21-53)

Sec. 20-56—20-60. Reserved.**ARTICLE IV. PUBLIC RIGHTS-OF-WAY*****Sec. 20-61. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

City engineer means the city engineer or designated representative.

Department means the department of public works of the city.

Director means the director of public works of the city or any person who holds the position as head of the public works department.

Facility means any man-made objects.

"Right-of-way" (R.O.W.) means the land owned or controlled by the city, or other governmental agency or entity that has been designated for public use which shall include, but not be limited to, streets, curbs, sidewalks, shoulders, utilities, landscape areas and other public uses.

Street means the paved or designated area for vehicular travel within the right-of-way.

Superintendent means the superintendent of streets or the designated representative.
(Ord. No. 97-03, § 1, 6-3-97)

Sec. 20-62. Damage and obstruction prohibited.

No person shall make any excavation or fill in, or cause any damage to any R.O.W. in the city, except under the conditions and in the manner permitted in this article. No person shall place any article, thing or obstruction in the R.O.W., except under the conditions used in the manner permitted in this article, but this provision shall not prohibit temporary obstructions

***Editor's note**—Ord. No. 97-03, adopted June 3, 1997, enacted provisions which pertained to construction and facilities in the public right-of-way. Such ordinance did not specify manner of codification; hence, §§ 1—24 have been designated by the editor as Art. V, §§ 20-61—20-82. For specific derivation of each section, see the history note parenthetically enclosed following the section and the Code Comparative Table at the back of this volume.

as incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

(Ord. No. 97-03, § 2, 6-3-97)

Sec. 20-63. Permits.

Where permits are authorized in this article, they shall be obtained upon application to the city engineer upon such forms as he shall prescribe. Permit fees will be established by resolution by the city council. Such permit shall be revocable by the city engineer for failure to comply with this article, rules and regulations adopted pursuant hereto, and the lawful orders of the city engineer or the duly authorized representative, and shall be valid only for the period of time endorsed thereon.

Application for a permit under the provisions of this article is an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city, repair all damage done to the street surface and installations on, over, or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to person or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be for the amounts established by the city manager.

A properly executed certificate of insurance containing evidence that the pertinent policy of insurance or endorsement applies to the provisions under which the permit is issued, and approved as to form by the city attorney, shall be filed with the city clerk.

Where cash deposits are required with the application for any permit, each deposit shall be in the amount as determined by the city engineer, and the deposit shall be used to defray all expenses to the city arising out of the granting of the permit and work done under or in connection with the permit. Six (6) months after acceptance of the work done under the permit, by the city engineer, any balance of each cash deposit unexpended shall be refunded. In any case, where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(Ord. No. 97-03, § 6-3-97)

Sec. 20-64. R.O.W. operations.

No person, public utility company, franchisee or licensee shall conduct any construction, repair or maintenance operations in the R.O.W. without first obtaining a written permit or annual permit from the city engineer. No permit shall be granted until the applicant has filed a liability insurance policy as required by this article and posted a cash deposit to defray the cost of repairing all damage done to the street surface and installation on, over, or within the street, as estimated by the city engineer. A permit shall expire after thirty (30) days of the date specified on the permit unless work has commenced on the project covered by the permit.

Annual permits may be issued, for emergency repairs, maintenance, small alterations and small service connections, at the discretion of the city engineer, with permit fees and cash deposits established by resolution of the city council and with liability insurance policies in amounts established by the city manager.

Permits for excavation of less than six (6) inches are not required if located outside of the street and are for the purpose of restoration and/or repair to landscaping or irrigation systems.

Routine operations conducted by a public utility company, franchisee, or licensee will not require a permit if no excavation is made in the right-of-way.
(Ord. No. 97-03, § 4, 6-3-97)

Sec. 20-65. Emergency operations.

Permits are not required for emergency work, provided that an annual permit has been obtained and that the city engineer is notified of the location and nature of the emergency work on the following business day and the provisions of this article will be complied with. However, the city engineer will review each emergency operation to assure such operations are not casual. Upon such review, the city engineer may require a public utility, franchisee or licensee to get verbal permission before doing any work in a right-of-way if the city engineer finds that use of this section is not being used for bona fide emergencies.
(Ord. No. 97-03, § 5, 6-3-97)

Sec. 20-66. Backfilling.

All trenches in a public R.O.W., except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this article. Any settlement shall be corrected within eight (8) hours after notification to do so.
(Ord. No. 97-03, § 6, 6-3-97)

Sec. 20-67. Underground structures.

All new or upgraded underground structures located within the public R.O.W. shall conform to the city engineering design standards and specifications or to the standards and specifications prescribed or approved by the city engineer.
(Ord. No. 97-03, § 7, 6-3-97)

Sec. 20-68. Utility poles and structures.

When utility poles, overhead equipment and structures are permitted to be placed in the public R.O.W., placement shall be as prescribed by the city engineer. Such poles, overhead equipment and structures shall be removed, relocated or placed underground as the city engineer shall direct when such facilities need to be relocated as a result of new road construction/road widening or other similar project as required by the rules of the Michigan Public Service Commission and Chapter 21 of Troy Municipal Codes.
(Ord. No. 97-03, § 8, 6-3-97)

Sec. 20-69. Mailbox supports.

Mailbox supports may be placed in the R.O.W. and shall not be considered obstructions unless any portion of the mailbox or mailbox support extends over any portion of the traveled street or curb. If any portion of a mailbox or mailbox support extends over the traveled street or curb, the mailbox or mailbox support shall be considered an obstruction and prohibited.

(Ord. No. 97-03, § 8a, 6-3-97)

Sec. 20-70. Maintenance of facilities in public R.O.W.

Every owner of, and every person in control of, any facility located in the public R.O.W. shall maintain the facilities in good repair and condition at all times and shall indemnify and save harmless the city against all damages or actions of law that may arise or be brought by reason of such facilities being located and operated within public right-of-way.

(Ord. No. 97-03, § 9, 6-3-97)

Sec. 20-71. R.O.W. improvements.

Whenever the city decides to make improvements to the R.O.W. involving the relocation of facilities belonging to public utilities, licensees and other franchisees, the city engineer shall, not less than one hundred twenty (120) days prior to commencement of construction, serve notice upon all public utilities, requiring them to install or relocate all necessary underground work in advance of the R.O.W. improvement.

(Ord. No. 97-03, § 10, 6-3-97)

Sec. 20-72. Sewer and water connections.

When paving or resurfacing shall have been ordered or declared necessary by the city council, such sewer and water connections as are necessary, shall be installed in advance of such paving or resurfacing, and the cost shall be charged against the premises adjacent, or to be served, and against the owner of such premises. Where such paving or resurfacing is financed in whole or in part by special assessment, the cost of such sewer and water connections may be chargeable against the premises served or adjacent, as a part of the special assessment for such paving or resurfacing. Where such paving or resurfacing is financed other than by special assessment, the cost of the sewer and water connections so installed, shall be a lien on the premises adjacent, or to be served, and shall be collected as provided for assessments on single lots pursuant to the provisions of the City Charter.

(Ord. No. 97-03, § 11, 6-3-97)

Sec. 20-73. Determination of necessity.

The necessity for sewer and water connections shall be determined by the director which determination shall be based upon the size, shape, and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the city, the character of the locality and the probable future development of each abutting lot or parcel of land. The director shall give written notice of the intention to install such sewer and water connections and to

charge the cost to the premises, to each owner of land abutting the street, to be furnished with such connections, as shown by the records of the city assessor in accordance with this Code. Any owner objecting to the installation of sewer or water connection shall file his objections in writing within seven (7) days after service of the notice, with the director who shall, after considering the objection made in writing, make a final determination of the sewer and water connections to be installed.

(Ord. No. 97-03, § 12, 6-3-97)

Sec. 20-74. Prohibited openings or excavations.

No permit to make any opening or excavation in or under a paved street, except for emergency repairs indicated in section 20-65, shall be granted to any person within a period of two (2) years after the completion of the paving or resurfacing. If a street opening is necessary as a public safety measure, the city engineer may suspend the operation of this section, as to such street opening.

(Ord. No. 97-03, § 13, 6-3-97)

Sec. 20-75. Utility placement zone.

A designated zone for the placement of new or relocated underground facilities, such as gas, electric, communication and other franchised or licensed facilities, shall be determined by the city engineer. This area shall be a nine-foot horizontally measured space at the outside edge of the right-of-way. This zone shall not be located on the side of the street where a water main is situated. If water mains are on both sides of the street, the south or east side of the street is to be used. If, due to technical reasons, the south or east side cannot be used nor is the placement zone practical, the placement shall be at the discretion of the city engineer. In all cases the utilities are to be placed within the designated zone unless authorized by the city engineer. The city engineer shall expand the utility placement zone, when necessary, to provide adequate space for placement. Utilities constructed of non-metallic material are required to have a traceable metallic wrap or accompanying wire for the purpose of tracing and locating with conventional locating equipment.

When placed in the R.O.W., utilities or other franchised or licensed facilities constructed of material susceptible to breakage (i.e. fiber optic, wire, plastic line) must be encased in a protective plastic conduit, when determined by the city engineer.

Plastic gas lines are excluded from the requirement for a protective plastic conduit.

Except for emergency repairs indicated in section 20-65, no opening or excavation may take place in the utility placement zone for a period of eighteen (18) months following construction of new pavement or new utility in the zone. The city manager may waive this time period if in his opinion it is in the best interests of the city.

(Ord. No. 97-03, § 14, 6-3-97)

Sec. 20-76. Road oiling and dust control.

No person shall apply any liquid dust control material or other liquid surface treatment to any street without first obtaining a permit for said work as required by this article. The permit fee shall be as established by resolution of the city council.

(Ord. No. 97-03, § 15, 6-3-97)

Sec. 20-77. Curb cuts.

No opening in or through any street curb shall be made without first obtaining a written permit from the city engineer. Driveway approaches, including curb cuts and sidewalk driveway crossings to provide access to private property, shall comply with the following, except planned commercial and industrial buildings which require separate site plan approval;

- (1) No single curb cut or driveway approach shall exceed eighty (80) feet in width, nor be less than twelve (12) feet in width, except, where joint driveway openings are permitted on either side of a common property line, the maximum curb cut shall be forty (40) feet per lot.
- (2) The minimum distance between any curb cut or driveway approach and a public crosswalk shall be five (5) feet.
- (3) Where sidewalks are required, no single sidewalk driveway approach crossing shall exceed thirty (30) feet in width.
- (4) The maximum number of linear feet of sidewalk driveway approach crossing permitted for any lot, parcel of land, business or enterprise, shall be forty-five (45) percent of the total abutting street frontage up to and including two hundred (200) lineal feet of street frontage plus twenty (20) percent of the lineal feet of street frontage in excess of two hundred (200) feet.
- (5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, underground structures, street or railway signs, signals, or other public improvements or installations shall be accomplished without cost to the city.
- (6) All new driveway approaches along paved streets shall be paved between the curb cut and the property line with concrete or asphalt in accordance with regulations established by the city engineer.
- (7) All construction shall be in accordance with plans and specifications approved by the city engineer.

(Ord. No. 97-03, § 16, 6-3-97)

Sec. 20-78. Obstructions.

(a) No person shall occupy any R.O.W. with any materials or machinery incidental to the construction, maintenance, demolition or repair of any facilities adjacent to the R.O.W., or for any other purpose, without first obtaining a permit or annual permit from the city engineer and posting a cash deposit and filing an insurance policy as required by this article.

(b) *Pedestrian passage.* At least five (5) feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians, and if the operations are such that free passageway is impracticable, a temporary plank sidewalk, meeting the approval of the city engineer, shall be provided around such obstruction.

(Ord. No. 97-03, §§ 17, 18, 6-3-97)

Sec. 20-79. Safety requirements.

(a) *Safeguards.* All temporary openings, excavations and obstructions located in a street or within twelve (12) feet of a street shall be provided with traffic control devices in conformance with the Michigan Manual of Uniform Traffic Control Devices. All temporary openings, excavations and obstructions located in a sidewalk or driveway approach shall be surrounded with lighted barricades. All unattended openings and excavations, located anywhere in the public R.O.W., greater than five (5) feet in depth shall be completely surrounded by fencing, securely mounted in place as directed by the city engineer.

(b) *Shoring excavations.* All openings and excavations shall, where necessary, be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which may injure the thoroughfare or subsurface structure of the street.

(Ord. No. 97-03, §§ 19, 20, 6-3-97)

Sec. 20-80. Unloading construction equipment.

No person shall unload from any vehicle or trailer power shovel, ditchdigger, trencher, bulldozer, tractor, or any similar construction or excavating equipment having a weight of one (1) ton or more or which moves about by any means other than rubber tires, onto or upon any hard-surfaced street without first obtaining a permit therefor from the street superintendent and posting a cash deposit. Such deposit shall be available for the repair and reconstruction of any street or its appurtenances damaged as a result of the permitted operation.

(Ord. No. 97-03, § 21, 6-3-97)

Sec. 20-81. Additional regulations.

(a) The city manager may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions, and house moving, which shall be subject to the approval of the city council.

(b) *Removal of encroachment.* Encroachments and obstructions in the R.O.W. may be removed and excavations refilled by the city. The expense of such removal or refilling shall be charged to the abutting land owner when made or permitted by them or suffered to remain by them, otherwise than in accordance with the terms and conditions of this article. The procedure for collection of such expenses shall be as prescribed in the City Charter.

(Ord. No. 97-03, §§ 22, 23, 6-3-97)

Sec. 20-82. Temporary R.O.W. closings.

The director shall have authority to temporarily close any portion of the R.O.W., when any portion is deemed to be unsafe or temporarily unsuitable for use for any reason. The director shall cause suitable barriers and signs to be erected in the R.O.W. indicating that any portion of the R.O.W. is closed to public travel. When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over the R.O.W., or portion, except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the director.

(Ord. No. 97-03, § 24, 6-3-97)

Secs. 20-83—20-99. Reserved.**ARTICLE V. METROPOLITAN EXTENSION TELECOMMUNICATIONS
RIGHTS-OF-WAY OVERSIGHT ACT (ACT NO. 48 OF THE PUBLIC ACTS OF 2002)****Sec. 20-100. Purpose.**

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("act") and other applicable law, and to ensure that the city qualifies for distributions under the act by modifying the fees charged to providers and complying with the act.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-101. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-102. Terms defined.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

City means the City of Algonac.

City council means the City Council of the City of Algonac or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the city council.

City manager means the city manager or his or her designee.

Permit means a non-exclusive permit issued pursuant to the act and this article to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities.

All other terms used in this article shall have the same meaning as defined or as provided in the act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to section 3 of the act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the Communications Act of 1934, chapter 652, 48 stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3 and service provided by any wireless, two-way communication device.

Telecommunication provider; provider and telecommunications services means those terms as defined in section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the Communications Act of 1934, chapter 652, 48 stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, a provider also includes all of the following:

- (a) A cable television operator that provides a telecommunications service.
 - (b) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.
 - (c) A person providing broadband internet transport access service.
- (Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-103. Permit required.

(a) *Permit required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act. A telecommunications provider shall file one (1) copy of the application with the city clerk, one (1) copy with the city manager, and one (1) copy with the city attorney. Upon receipt, the city clerk shall make three (3) copies of the application and distribute a copy to city engineer, zoning administrator, and department of public works. Applications shall be complete and include all information required by the act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the act.

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 6(5) of the act, the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time non-refundable application fee in the amount of five hundred dollars (\$500.00).

(e) *Additional information.* The city manager may request an applicant to submit such additional information which the city manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the city manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in section 6(2) of the act.

(f) *Previously issued permits.* Pursuant to section 5(1) of the act, authorizations or permits previously issued by the city under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.

(g) *Existing providers.* Pursuant to section 5(3) of the act, within one hundred eighty (180) days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the city an application for a permit in accordance with the requirements of this article. Pursuant to section 5(3) of the act, a telecommunications provider submitting an application under this subsection is not required to pay the five hundred dollars (\$500.00) application fee required under subsection (d) above. A provider

under this subsection shall be given up to an additional one hundred eighty (180) days to submit the permit application if allowed by the authority, as provided in section 5(4) of the act. (Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-104. Issuance of permit.

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city manager. Pursuant to section 15(3) of the act, the city manager shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under section 20-103(b) of this article for access to a public right-of-way within the city. Pursuant to section 6(6) of the act, the city manager shall notify the MPSC when the city manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The city manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1) and 15 of the act.

(c) *Conditions.* Pursuant to section 15(4) of the act, the city manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to section 15(3) of the act, and without limitation on subsection (c) above, the city manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-105. Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the city without first obtaining a construction engineering permit for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-106. Conduit or utility poles.

Pursuant to section 4(3) of the act, obtaining a permit or paying the fees required under the act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-107. Route maps.

Pursuant to section 6(7) of the act, a telecommunications provider shall, within ninety (90) days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the act.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-108. Repair of damage.

Pursuant to section 15(5) of the act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-109. Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the city set forth in subsection 20-108(d)[20-103(d)] above, a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the act.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-110. Modification of existing fees.

In compliance with the requirements of section 13(1) of the act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act, the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under section 8 of the act. The city shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-111. Savings clause.

Pursuant to section 13(5) of the act, if section 8 of the act is found to be invalid or unconstitutional, the modification of fees under section 20-110 above shall be void from the date the modification was made.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-112. Use of funds.

Pursuant to section 10(4) of the act, all amounts received by the city from the authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the city under Act No. 51 of the Public Acts of 1951.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-113. Annual report.

Pursuant to section 10(5) of the act, the city manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-114. Cable television operators.

Pursuant to section 13(6) of the act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this act, for a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-115. Existing rights.

Pursuant to section 4(2) of the act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-116. Compliance.

The city hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in section 20-103(c) of this article;

- (b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 20-103(f) of this article;
 - (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the five hundred dollars (\$500.00) application fee, in accordance with section 20-103(g) of this article;
 - (d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with section 20-104(a) of this article;
 - (e) Notifying the MPSC when the city has granted or denied a permit, in accordance with section 20-104(a) of this article;
 - (f) Not unreasonably denying an application for a permit, in accordance with section 20-104(a) of this article;
 - (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 20-104(b) of this article;
 - (h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 20-104(c) of this article.
 - (i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 20-104(d) of this article;
 - (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 20-105 of this article;
 - (k) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 20-110 of this article;
 - (l) Submitting an annual report to the authority, in accordance with section 20-113 of this article; and
 - (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 20-114 of this article.
- (Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-117. Reservation of police powers.

Pursuant to section 15(2) of the act, this article shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-118. Authorized city officials.

The city manager or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this article as provided by the City Code.

(Ord. No. 2002-5, § 1, 12-17-02)

Sec. 20-119. Municipal civil infraction.

A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this article or a permit.

(Ord. No. 2002-5, § 1, 12-17-02)